

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

BOBBY GILES, as Special Administrator	)	
for the Estate of Jannie Giles, Deceased,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	Case No. 08 CV 4654
	)	
CHICAGO DRUM, INC.; INDUSTRIAL	)	Judge Pallmeyer
CONTAINERS SERVICES, LLC;	)	
INDUSTRIAL CONTAINER SERVICES-	)	Magistrate Judge Keys
IL, LLC; IFCO SYSTEMS N.V.; IFCO	)	
SYSTEMS ILLINOIS, INC.; IFCO	)	
SYSTEMS NORTH AMERICA, INC.;	)	
DRUM HOLDING COMPANY, INC.;	)	
ESP REALTY CORP., INC.; ELLIOT S.	)	
PEARLMAN; BASF CORPORATION;	)	
SUN CHEMICAL CORPORATION; 3M	)	
COMPANY; EXXONMOBIL OIL	)	
CORPORATION; MOBIL PLASTICS	)	
RECYCLING CORP.; EXXON MOBIL	)	
OIL CORPORATION; MOBIL	)	
CORPORATION; MOBIL CHEMICAL	)	
COMPANY, INC.; DEWITT BARRELS,	)	
INC.; and THE SHERWIN-WILLIAMS	)	
COMPANY;	)	
	)	
Defendants.	)	

**MOTION FOR EXTENSION OF TIME TO ANSWER OR OTHERWISE PLEAD**

Defendant 3M Company ("3M") respectfully moves this Court for an extension of time to answer or otherwise plead in response to plaintiff's Second Amended Complaint, removed to this Court on August 15, 2008 from the Circuit Court of Cook County, Illinois. In support of this motion, 3M respectfully states as follows:

1. 3M was a named defendant in a civil action pending in the Circuit Court of Cook County, Illinois, County Department, Law Division styled as *Giles v. Chicago Drum, Inc., et al.* and docketed as No. 03 L 006944 (the “State Court Action”).

2. In the State Court Action, plaintiff alleges that his decedents lived and/or worked in the vicinity of the Acme Barrel drum reconditioning plant in Chicago during various periods over the last several decades (Acme Barrel is now known as Chicago Drum, Inc.). Plaintiff further alleges that his decedent suffered physical ailments and died as a result of her alleged exposure to hazardous emissions from that facility. In addition to naming Acme Barrel (*i.e.*, Chicago Drum) and its alleged owners as defendants, plaintiff has also named some of Acme Barrel’s former customers that shipped containers to Acme Barrel for reconditioning and refurbishing, including 3M. Plaintiff alleges those containers illegally contained hazardous or toxic chemicals when they were shipped to Acme Barrel, which Acme Barrel allegedly caused to be released into the environment.

3. On August 1, 2008, plaintiff filed a Second Amended Complaint that added new causes of action that allege defendants “unlawfully conspired to violate 42 U.S.C. § 6901 et seq.,” the federal Resource Conservation and Recovery Act of 1976 (RCRA).

4. On August 15, 2008, 3M timely removed the State Court Action to this Court pursuant to 28 U.S.C. §§ 1331, 1441, and 1446.

5. No defendant has yet answered or otherwise pled/moved in response to the Second Amended Complaint. Under Fed. R. Civ. P. 81(c)(2), a defendant who did not answer before removal must answer or present other defenses or objections within 20 days after receiving the complaint, 20 days after being served with the summons for an initial pleading, or 5 days after the notice of removal is filed, whichever is longest.

6. 3M respectfully requests that 3M and all defendants be granted a sixty-day extension, or until October 21, 2008, within which to Answer or otherwise plead in response to the Second Amended Complaint. Good cause exists for such an extension. This case is one of three related cases filed on behalf of 77 plaintiffs asserting the exact same claims against 19 defendants in the Circuit Court of Cook County. All of these cases, which were consolidated for discovery in the State court, were timely removed on August 15, 2008. Collectively, the latest amended complaints in these cases span 1971 pages and include 1390 separate counts. The Second Amended Complaint in this case spans 110 pages and includes 28 counts. Responding to this and the related complaints will be a time-consuming endeavor.

7. Given the voluminous nature of the anticipated Second Amended Complaint and those in the related cases, agreed orders were entered on July 24, 2008 in the Circuit Court of Cook County in the State Court Action providing that no defendant was required to Answer or otherwise plead in response to the Second Amended Complaint or the amended complaints in the related cases pending further order of the Court. Copies of the agreed orders are attached as Exhibit A.

8. Prior to filing this motion, counsel for 3M telephoned two attorneys representing plaintiff seeking plaintiff's agreement to the extension sought in this motion, just as plaintiff had agreed to the orders attached as Exhibit A. Neither of plaintiff's attorneys returned 3M's call prior to filing.

WHEREFORE, 3M Company respectfully requests that 3M and all defendants be granted an extension of time, until October 21, 2008, within which to Answer or otherwise plead in response to plaintiffs' Second Amended Complaint.

Dated: August 18, 2008

Respectfully submitted,

/s/ James J. Boland

Mark S. Lillie, P.C.

James J. Boland

Benjamin W. Hulse

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(Firm No. 90443)

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*Attorneys for Defendant 3M Company*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 18th day of August, 2008, he electronically filed the foregoing documents with the Clerk of the Court using the CM/ECF system. The undersigned further certifies that a true and correct copy of the foregoing document has been served on the following counsel by messenger (or electronic mail and federal express, as indicated) on this the 18th day of August, 2008:

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/s/James J. Boland

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

BOBBY GILES, individually, and, as special  
administrator of the estate of JANNIE GILES,  
deceased,

Plaintiff,

No. 03 L 006944

V.

**Judge John B. Grogan**

ACME BARREL COMPANY, INC., *et al.*

## Defendants

**AGREED ORDER**

Pursuant to the agreement of the parties and the Court being fully advised in the premises, IT IS HEREBY ORDERED:

1. Plaintiff shall file an Amended Complaint on or before August 1, 2008;
2. Defendants' obligation to answer or otherwise plead in response to any Amended Complaint is stayed pending further order of the Court;
3. A further status is set for August 26, 2008, at 9:30 a.m.

ENTER

JUL 24 2008

Circuit Court - 1566

JUDGE

**KIRKLAND & ELLIS LLP**  
Firm No. 90443  
200 East Randolph Drive  
Chicago, IL 60601  
(312) 861-2000 (Telephone)  
(312) 861-2200 (Facsimile)

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, LAW DIVISION

MARY E. TUFF, as Special  
Administratrix for the Estate  
of Douglas Tuff, Deceased, *et al.*

Plaintiffs,

v.

CHICAGO DRUM, INC., (f/k/a IFCO  
ICS-Chicago, Inc., IFCO Systems Chicago,  
Inc., Acme Barrel Company, Inc.), *et al.*

Defendants

RONALD JONES JR., Special  
Administrator for the Estate of  
KEJUAN DICKENS, Deceased, *et al.*

Plaintiffs,

v.

CHICAGO DRUM, INC., (f/k/a Acme  
Barrel Company, Inc., IFCO ICS-  
Chicago, Inc., IFCO Systems  
Chicago, Inc.), *et al.*

No. 03 L 006225

Judge John B. Grogran

No. 07 L 003624

**AGREED ORDER**

Pursuant to the agreement of the parties and the Court being fully advised in the premises, IT IS HEREBY ORDERED:

1. The status hearing set for July 24, 2008 is stricken;
2. Plaintiffs' Motion for Leave to File Amended *Tuff* and *Jones* Complaints is granted;
3. Amended Complaints shall be filed on or before August 1, 2008;
4. Defendants' obligation to answer or otherwise plead in response to any Amended Complaints is stayed pending further order of the Court;
5. By agreement of the parties, discovery, including oral discovery, shall reopen on September 1, 2008;

6. Plaintiffs' Motion to Modify Case Management Order to Allow Oral Discovery is denied without prejudice as moot;
7. Any motions to compel based on previously-served discovery requests shall be filed by September 18, 2008;
8. All other pending motions are entered and continued;
9. A further status is set for August 26, 2008, at 9:30 a.m.

ENTER  
**Assoc. Judge John B. Grogan**

**JUL 24 2008**

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**Circuit Court - 1566**  
JUDGE

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